

10-28-2013

Kingsley v. Blades Appellant's Brief Dckt. 41302

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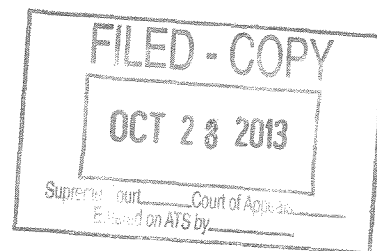
Stephen J. Kingsley, #15065
I.S.C.I., Unit 24
Post Office Box 14
Boise, Idaho
83707

IN THE SUPREME COURT
OF THE STATE OF IDAHO

STEPHEN J. KINGSLEY,
APPELLANT,

VS:

STATE OF IDAHO,
RESPONDENT.



SUPREME COURT CASE NUMBER 41302

On Appeal from the Fourth Judicial District Court
The Honorable Daniel Hurlbutt Presiding

For The Appellant

Stephen J. Kingsley
I.S.C.I., Unit 24
Post Office Box 14
Boise, Idaho
83707

For The Respondent

Office of the Att.Gen.
Att: L.LaMont Anderson
Post Office Box 83720
Boise, Idaho
83720-0010

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ISSUES PRESENTED FOR REVIEW

Did the District Court err by dismissing the Petition for a Writ of Habeas Corpus?

Did the District Court err by holding that the Parole Board and the Board of Corrections cannot be named in a Habeas Corpus Proceeding?

Was the Order of the District Court Correct and did the Order of the District Court violate the Rights of the Appellant?

Did the Order of the District Court disregard the cases from the United states Supreme Court?

For purposes of brevity, the Appellant will consolidate all of the above issues into one argument.

TABLE OF AUTHORITIES

<u>CASE</u>	<u>PAGE</u>
<u>Board of Regents V. Roth,</u> 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548, 91972).....	4
<u>Meachum V. Fano,</u> 427 U.S. 215, 96 S.Ct. 2532, 49 L.Ed.2d 451, (1976).....	5
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United States Constitution, Amendment Six.....	PASSIM
United States Constitution, Amendment Fourteen.....	PASSIM

STATEMENT OF THE CASE

The State of Idaho, by and through the Department of Corrections, has informed the Appellant/Petitioner that he would not be paroled unless he was enrolled in, and graduated from the Sexual Offender Program.

The Appellant informed the Respondent, that he was not convicted of a Sexual Offense, and that to label him as a sexual offender would violate his rights.

The Appellant further informed the named Respondents that it was not lawful to impose upon him a condition for parole release that has nothing to do with the conviction he stands convicted of.

The Appellant filed a Petition for a Writ of Habeas Corpus in the Fourth Judicial District Court, which was denied by the Court.

The Appellant then filed a timely notice of Appeal from the denial of the Petition for a Writ of Habeas Corpus.

The Appellant has filed an appeal and is basing this appeal on several different factors, any one of which would demand that this Court enter an Order directing that the Writ be granted.

One of the points of contention is the fact that inmates can be harmed by the actions of certain individuals, (Such as the Parole Board, and the Board of Corrections), and the District Court held that they could not be named.

However, this is not a Civil suit for monetary damages, it is for injunctive relief and the Board of Corrections, and the Parole Board can be named in such an action.

For purposes of this Brief, the terms Petitioner and Appellant are used interchangeably.

This action is before this Court because the named Respondent has classified and labeled the Petitioner as a sexual offender when in fact he has not been convicted of a felony Sexual Offense.

ARGUMENT OF LAW

Attached as Exhibit A, is a copy of the conviction from Ada County Magistrate Court for the Misdemeanor offense of Lewd Conduct With a Child, a violation of I.C. §61-444.

Because this was a misdemeanor charge it does not carry with it the adverse condition of registration. Because it was a misdemeanor charge, it does not carry with it none of the other collateral consequences of a felony sexual offense, and should not be used to supervise the Petitioner as a sexual offender, as it was completely discharged 28 years ago.

Under any legal theory, there is no way that the Respondents have any type of ability to impose any conditions of his current conviction, (Such as compelling the Petitioner to take the Sexual Offender Treatment Program), because he was convicted 28 years ago for a misdemeanor charge. The Idaho State Department of Corrections have absolutely no Jurisdiction to impose any type of conditions on a misdemeanor conviction. Only the Court has such an ability, and that jurisdiction only last during the pendency of the case.

Attached as Exhibit B is a copy of the current amended information for which the Petitioner is currently incarcerated.

It is clear that the charge is not a sexual offense, and therefore the Respondent should not be placing such a label on the Petitioner as being a sexual offender, nor should the State of Idaho be allowed to compel the Petitioner to enroll in, and to complete the sexual offender program when he is not convicted of a sexual offense.

Even though the Petitioner was charged with a sexual offense, he was not CONVICTED of such an offense. It would seem to usurp the entire plea bargaining process to allow the Respondent to use a crime that was dismissed as a result of a plea negotiation as a basis to label the Petitioner as a sexual offender.

The Respondent has stated that, "...as part of the plea negotiation, the Petitioner agreed to be supervised, and agreed to take the sexual offender program". (Motion to dismiss, Supplemental Memorandum, at page 2).

Attached as Exhibit C is a copy of the plea agreement in this case. Clearly that Petitioner agreed to take a Psychosexual Evaluation, to be used to make a determination as to whether or not he was able to be placed on a "Ryder", and then to probation. At no time did the Petitioner ever agree to take the Sexual Offender Treatment Program, or be supervised as a Sexual Offender. Both of the above requirements will be construed as an action taken in violation of the contract between the State of Idaho and the Petitioner. (Plea agreement is a contract).

This issue has been clearly and conclusively decided by the Ninth Circuit Court of Appeal in the case of Neal V. Shimoda, 131 F.3d 818, (1997).

In the above case, the Court stated:

"..Labelling as a Sexual Offender a prisoner who was not convicted of sexual offense, and who has never been afforded the ability to challenge such a label in an adversary proceeding violates Due Process of Law ".

Part of the Sexual Offender Treatment Program is that an inmate who is enrolled in such a program must admit that he is in fact guilty of a sexual offense. The Petitioner has never entered a plea to a sexual offense, so he cannot ever graduate from the S.O.T.P. To place the stigmatization upon him, (That he is a sexual offender), and then to not allow him to be paroled unless he successfully completes this program, would place the Petitioner in the proverbial "catch 22".

The classification of an inmate as a sexual offender is precisely the type of "atypical and significant hardship on the inmate in relation to the ordinary incident of prison life" that the United States Supreme Court has held creates a protected liberty interest. Please see, Sandin V. Conner, 515 U.S. 472, 483, 115 S.Ct. 2293, 2299, 132 L.Ed. 2d 418, (1995).

"The requirements of procedural due process apply only to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property". Board of Regents V. Roth, 408 U.S. 564, 569, 92 S.Ct. 2701, 2704, 33 L.Ed.2d 548, (1972)." State Statutes and Regulations may grant prisoners liberty interests that

invoke Due Process protections!" Meachum V. Fano, 427 U.S. 215, 223-227, 96 S. Ct. 2532, 2537-2539, 49 L.Ed.2d 451, (1976).

The United States Supreme Court has held:

"[T]hese interests will be generally limited to freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force, nonetheless imposes a significant hardship on the inmate in relation to the ordinary incidents of prison life". Sandin V. Conner, 515 U.S. 472, 483, 115 S.Ct. 2293, 2299, 132 L.Ed.2d 418, (1995).

The classification of an inmate as a sexual offender is precisely the type of "atypical and significant hardship on an inmate in relation to the ordinary incidents of prison life" that the Supreme Court held created a protected liberty interest. Please see Neal V. Shimoda, *Supra*, at 829.

This Court is certainly bound by the law as established by the Ninth Circuit Court of Appeals, and therefore the case of Neal V. Shimoda, 131 F.d 3d 818, (1997), is binding upon this Court.

This is exactly the same issues as the Ninth Circuit dealt with in Shimoda, *Supra*,. Therefore, it is a simple finding for this Court to grant to the Petitioner the sought after Writ of Habeas Corpus, and the relief that was requested therein.

In the first place the Petitioner has not been convicted of a felony sexual offense, so there is simply no authority for the Respondent to place the significant burden upon the Petitioner to be labeled as a sexual offender. This sigmatization will also be used to supervise the Petitioner on parole, if he is ever granted

such a parole.

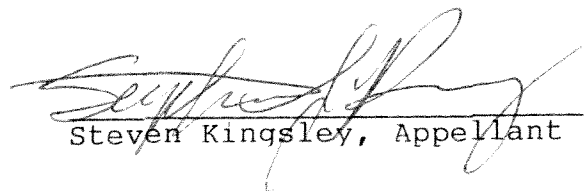
The type of label that the respondent is attempting to place upon the Petitioner would be a "significant and atypical hardship" above those included in the ordinary prisoner's life in prison. It is the type of action that the Respondent must not be allowed to do without affording to the Petitioner some form of procedural Due Process.

It is because this type of labeling has already been deemed to be unconstitutional, and violative of the Fourteenth Amendment to the United States Constitution that this Court must reverse the Order of the District Court, and grant to the Appellant the relief he sought in that Court.

OATH OF APPELLANT

Comes now, Stephen Kingsley, the Petitioner herein, who after being duly sworn and placed upon his oath, avers and states as follows:

I am the Petitioner herein. I have read the enclosed Response of the Petitioner as to the Motion to Dismiss filed by the Respondent. I know the contents thereof and believe them to be true and correct to the best of my belief.


Stephen Kingsley, Appellant

10-1-13
Dated

EXHIBIT A

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, ADA COUNTY
MAGISTRATE DIVISION

STATE OF IDAHO,
Plaintiff,

vs.

Stephen Kingsley
Defendant.

NO.

FILED
11:00 P.M.

Case No.

88400905
45C-2283

OCT 27 1986

JUDGMENT OF CONVICTION

DOB

SS#

ADDRESS

12/31/59

579-70-5296

2212 N. 28th

JOHN BASTIDA, CLERK

BY

DEPUTY

PROBATION ORDER

Defendant having been charged with the crime(s) of

61-444

Lewd Conduct with Minor

- ☒ Idaho Code ☐ Ada County Ordinance ☐ Boise City Code ☐ Garden City Code
☐ Meridian City Code; and

☐ Upon trial by jury/court defendant having been found guilty of said crime

☒ Defendant personally appearing

was represented by: *Wyman*

☐ waived the right to choice of counsel;

☐ waived the right to court appointed counsel;

☐ waived the right to trial by jury;

☐ waived the right to confront his accusers;

☐ waived the right against self-incrimination;

and was advised of the consequences of a guilty plea; whereupon said defendant entered a plea of guilty to said crime.

It is therefore the judgment of this court that said defendant is guilty of said crime.

It is further the judgment of this court that said defendant:

- A. ☒ Be fined the sum of \$ *300.00* and assessed costs of \$ *15.00* and that \$ *300.00* thereof is hereby suspended for a period of *24* (days) (months) to be paid in *installment* (days) (months) in *equal payments beginning*
- B. ☒ Is hereby sentenced to *180* (days) (months) in the Ada County Jail and that (days) (months) thereof be suspended for *Credit 11 days* (days) (months)
- C. ☐ Reimburse the Ada County Public Defender account in the amount of \$ _____ as follows:

D. ☐ Reimburse the ☐ Ada County ☐ Boise City ☐ Meridian City ☐ Garden City prosecuting attorney for costs of prosecution in the amount of \$ _____

E. ☒ Be granted and placed on probation under the following terms and conditions: (only the checked conditions are applicable).

- ☒ That the defendant must pay all fines and court costs, make all reimbursement and restitution payments, and complete all jail time and community service work as herein ordered.
- ☒ That the defendant shall notify the Clerk of the Court of any change of address during the period of probation.
- ☒ That during said period of probation the defendant shall not violate any law or ordinance of the United States or any city, state or county therein, wherein a fine or bond forfeiture of more than \$40.00 or a jail term could have been imposed as a penalty.
- ☒ That the court may at any time in case of a violation of the terms of this probation cause the defendant to be returned to the court for imposition of any suspended sentence, fines or costs.
- ☒ That if, as part of the terms of this probation, defendant is required to serve time in jail, defendant shall not report for said incarceration with any trace of alcohol and/or drugs in his bloodstream or body's system, and will submit to any tests requested at that time for detection of alcohol and/or drugs.

HER 12706

6. ☐ That during said period of probation the defendant shall not refuse to submit to an evidentiary test for purposes of determining blood alcohol content when so requested by a peace officer.

7. ☐ That the defendant have his driver's license suspended for _____ days from _____ with the following conditions or restrictions _____

8. ☒ That the defendant shall attend and complete the programs marked below and shall make immediate contact with said programs within 48 hours, pay the required fee, arrive at each class on time and fully cooperate with program sponsors:

☐ VA Medical Center
500 West Fort — Boise
Phone: 338-7208

☐ Community Services Alternatives (CSA)
Melody Doubleday
117 N. 8th Basement Level — Boise
Phone: 345-2523
Hours: _____
Time to Complete: _____

☒ Nelson Institute
1010 N. Orchard — Boise
Phone: 377-8204

☐ Alcoholism Intervention Services
6904 Overland — Boise
Phone: 372-8046

☐ DUI School
Jim Dickey
Borah High School
6001 Cassia — Boise
Phone: 342-0768
Fee: \$40.00

☐ Other _____

NATIONAL TRAFFIC SAFETY INSTITUTE (NTSI)

☒ Driving School — Behavioral Traffic School
St. Mark's School — 7th Grade Room
7503 Northview — Boise
Phone: 377-1990
Fee: \$20.00

☒ Youth Alcohol Program
Contact: NTSI Representative
7180 Barrister Drive
Criminal Court Building — Boise
Phone: 377-1990
Fee: \$30.00

☐ Petty Theft Program
Contact: NTSI Representative
7180 Barrister Drive
Criminal Court Building — Boise
Fee: \$35.00

☐ Aggression Control Program
Contact: NTSI Representative
7180 Barrister Drive
Criminal Court Building — Boise
Phone: 377-1990
Fee: \$45.00

FAILURE TO COMPLETE THESE PROGRAMS AS ORDERED MAY RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST.

F. ☒ OTHER SPECIAL CONDITIONS OF DEFENDANT'S SENTENCE OR PROBATION: \$10 VCF
W. Work Release

This probation will be terminated on Oct 20 19 88
unless otherwise ordered by the court.

DATED THIS 20 DAY OF Oct 19 86

Tom Mord
Judge

ACCEPTANCE OF PROBATION

THIS IS TO CERTIFY that I have read and fully understand and accept all conditions, regulations and restrictions under which I am being granted probation. I understand I have the right to refuse the above conditions of probation and that I will abide by and conform to them strictly, and fully understand that my failure to do so may result in the revocation of my probation and imposition of any suspended sentence, fines or costs. I also certify that I have made the court aware of my entire past criminal record and that this probation can be revoked if I have not made a full disclosure of such.

DATED this 20 day of Oct
Shonda Tuttle
Witness

Boyd J. Jorgensen
Probationer



EXHIBIT B

8.15.12
Co

GREG H. BOWER

Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

COPY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,)	Case No. CR-FE-2012-0005226
)	
vs.)	AMENDED
)	INFORMATION
STEPHEN JON KINGSLEY,)	
)	Defendant's DOB [REDACTED]
Defendant.)	Defendant's SSN: [REDACTED]
)	

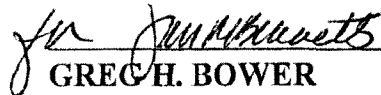
GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that STEPHEN JON KINGSLEY is accused by this Amended Information of the crime of: INJURY TO CHILD, FELONY, I.C. §18-1501(1) which crime was committed as follows:

That the Defendant, STEPHEN JON KINGSLEY, in the County of Ada, State of Idaho, did, under circumstances likely to produce great bodily harm or death, willfully cause or permit the child to be placed in a situation endangering her health or person, while

on or about 14th day of Jan, 2012 -

having care and/or custody of the child, to-wit: J.M., a child under the age of eighteen, to-wit: of the age of fourteen (14), by furnishing the child with alcohol and exposing the child to drugs.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER
Ada County Prosecuting Attorney

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EXHIBIT C

GUILTY PLEA ADVISORY

AUG 15 2012

Defendant's Name: STEPHEN J. KINGSLEY

By: CHRISTOPHER D. RICH, Clerk
DEPUTY

Date: 8/15/12

Case Number: 2012 - 5226

Nature of Charge(s):
1 CT 18-15C10 F ABUSE

Minimum & Maximum Possible Penalty:
1-10

OF CHILD

**STATEMENT OF RIGHTS & EXPLANATION OF WAIVERS BY PLEA OF GUILTY
(PLEASE INITIAL EACH RESPONSE)**

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elected to have a trial, the state could not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent before and during trial. SK

2. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. Even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. SK

3. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county.

4. You are presumed to be innocent. You would be found guilty if: 1) you plead guilty in front of the judge, or 2) you are found guilty at a jury trial.

I understand that by pleading guilty I am waiving my right to be presumed innocent. SK.

5. You have the right to a speedy and public jury trial. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. The state must convince each and every one of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am waiving my right to a speedy and public jury trial. SK.

6. You have the right to confront the witnesses against you. This occurs during a jury trial where the state must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call your own witnesses of your choosing to testify concerning your guilt or innocence. If you do not have the funds to bring those witnesses to court, the state will pay the cost of bringing your witnesses to court.

I understand that by pleading guilty I am waiving my right to confront the witnesses against me, an present witnesses and evidence in my defense.

SK.

QUESTIONS REGARDING PLEA

(Please answer every question. If you do not understand a question consult your attorney before answering.)

PLEASE CIRCLE ONE

1. Do you read and write the English language?
If not, have you been provided with an interpreter to help you fill out this form?

YES NO
YES NO

2. What is your age? 54.

3. What is your true and legal name?

STEPHEN TON KINGSLEY

4. What was the highest grade you completed? 14

If you did not complete high school, have you received either a general education diploma or high school equivalency diploma?

YES NO

5. Are you currently under the care of a mental health professional?

YES NO

6. Have you ever been diagnosed with a mental health disorder?

YES NO

If so, what was the diagnosis and when was it made?

7. Are you currently prescribed any medication?

YES NO

If so, have you taken your prescription medication during the past 24 hours?

YES NO

8. In the last 24 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case?

YES NO

9. Is there any other reason that you would be unable to make a reasoned and informed decision in this case?

YES NO

10. Is your guilty plea the result of a plea agreement?

YES NO

If so, what are the terms of that plea agreement?

(If available, a written plea agreement should be attached hereto as "Addendum A")

REDUCTION TO 18-150 MONTHS TO CHILD

PSYCHOSEXUAL (JOHNSON) IF LOW RISK LAMEN ABLE TO TREATMENT

THEY STATE WILL CONSIDER A CONTINGENT REC., SUB ABUSE EVAL,

CONCURRENT, NO PART II, FINE X RESTITUTION OPEN,

- Δ TO PAY FOR PSYCHOSEXUAL EVENTUALLY,

- Δ FREE TO ARGUE LESS

11. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea you are entering:

- a. I understand that my plea agreement is a binding plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. _____.
- b. I understand that my plea agreement is a non-binding plea agreement. This means that the court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, including the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. .

12. As a term of your plea agreement, are you pleading guilty to more than one crime?

YES NO

If so, do you understand that your sentences for each crime could be ordered to be served either concurrently (at the same time) or consecutively (one after the other)?

YES NO

13. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?

YES NO

If so, what issue are you reserving the right to appeal?

14. Have you waived your right to appeal your judgment of conviction and sentence as part of your plea agreement?

YES NO

15. Have any other promises been made to you which have influenced your decision to plead guilty?

YES NO

If so, what are those promises?

16. Do you feel you have had sufficient time to discuss your case with your attorney?

☒ YES ☐ NO

17. Have you told your attorney everything you know about the crime?

☒ YES ☐ NO

18. Is there anything you have requested your attorney to do that has not been done?

YES ☒ NO

If yes, please explain. _____

19. Your attorney can get various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called discovery. Have you reviewed the evidence provided to your attorney during discovery?

☒ YES ☐ NO

20. Have you told your attorney about any witnesses who would show your innocence?

☒ YES ☐ NO

21. Do you understand that by pleading guilty you will waive any defenses, both factual and legal, that you believe you may have in this case?

☒ YES ☐ NO

22. Are there any motions or other requests for relief that you believe should still be filed in this case?

YES NO

If so, what motions or requests? _____

23. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including:
1) any searches or seizures that occurred in your case,
2) any issues concerning the method or manner of your arrest, and 3) any issues about any statements you may have made to law enforcement?

YES NO

24. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty?

YES NO

25. Are you currently on probation or parole?

YES NO

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole? YES NO

26. Are you aware that if you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship?

YES NO

27. Do you know whether the crime to which you will plead guilty would require you to register as a sex offender? (I.C. § 18-8304)

YES NO

28. Are you aware that if you plead guilty you may be required to pay restitution to the victims in this case? (I.C. § 19-5304)

YES NO

29. Have you agreed to pay restitution to any other party as a condition of your plea agreement?

YES NO

If so, to whom? _____

30. Is there a mandatory driver's license suspension as a result of a guilty plea in this case? YES NO
- If so, for how long must your license be suspended? _____
31. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse, or psychosexual evaluation is required? (I.C. §§ 18-918(7)(a), -8005(9), -8317) YES NO
32. Are you pleading guilty to a crime for which you may be required to pay the costs of prosecution and investigation? (I.C. § 37-2732A(K)) YES NO
33. Are you pleading guilty to a crime for which you will be required to submit a DNA sample to the state? (I.C. § 19-5506) YES NO
34. Are you pleading guilty to a crime for which the court could impose a fine for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307) YES NO
35. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho? (ID. CONST. art. 6, § 3) YES NO
36. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold public office in Idaho? (ID. CONST. art. 6, § 3) YES NO
37. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho? (ID. CONST. art. 6, § 3) YES NO
38. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry firearms? (I.C. § 18-310) YES NO
39. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES NO
40. Are you entering your plea freely and voluntarily? YES NO
41. Are you pleading guilty because you did commit the acts alleged in the information or indictment? YES NO

42. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter?

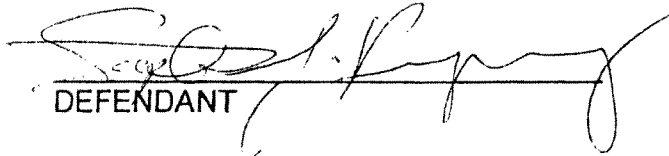
YES NO

43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue with your attorney?

YES NO

I have answered the questions on pages 1-7 of this Guilty Plea Advisory form truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily. Furthermore, no one has threatened me to do so.

Dated this 15 day of August, 2013


DEFENDANT

I hereby acknowledge that I have discussed, in detail, the foregoing questions and answers with my client.


DEFENDANT'S ATTORNEY

STATE OF IDAHO
COUNTY OF ADA
I, CHRISTOPHER D. RICH, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, do and for the County of Ada, do hereby certify that the foregoing is a true and correct copy of the original on file in my office. In witness whereof, I have hereunto set my hand and affixed my official seal this 15th day of August, 2013.
CHRISTOPHER D. RICH, CLERK
By [Signature] Deputy